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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/506,330      | 09/02/2004  | Toshiyuki Kameyama   | 2004_1352A          | 8805             |

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EXAMINER

SMITH, SCOTT A

ART UNIT PAPER NUMBER

3721

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/506,330

Applicant(s)

KAMEYAMA ET AL.

Examiner

Scott A. Smith

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/2/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are indefinite since their scope cannot be clearly determined. Claims 7 and 8 recite a cartridge and a stapler respectively, however the staple is also recited in the body of the claims. Therefore, it is unclear as to whether a combination of a stapler and a staple is being claimed, or merely a stapler. Several of the dependent claims are indefinite for the same reason, in which only staple details are recited. In claim 7, line 2, "a cartridge" is claimed. However, line 1 already recites "A cartridge". This is confusing. Claim 7 is indefinite since "the staple" on line 5 lacks proper antecedent basis. The recitation of "leg parts that are bent after substantially perpendicularly from the shoulder parts" on line 12 is grammatically confusing. In claim 8, the recitation of "that bents leg parts after piercing the staple" on line 4 is grammatically confusing. In claim 8, line 6, the recitation of "a line, which connects the lower ends or arranged multiple staples" is awkward. What defines such a line? Is this supported in the specification as being horizontal? The recitation of "being inclined against the leg parts" on lines 11 and 12 cannot be clearly understood. In claim 9, lines 2 and 3, "to guide movement" of what? This appears to be incomplete. The last four

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lines of claims 10 and 16 are grammatically awkward and confusing. In claim 14, the recitation of "is inclined against" is indefinite and confusing. Claim 15 is entirely confusing. Claims 11-14 and 17-30 fail to further limit the stapler of the claims from which they depend since only staple structure is being claimed. The claims also end with the recitation of "in the staple" which is awkward. Perhaps the claims should be rewritten.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-30 are rejected under 35 U.S.C. 102(b) as being anticipated by JP '782 or JP '570.

Note that the particulars of the staple are given no patentable weight since the staple is not but claimed, per se, but rather only the cartridge and stapler. JP '782 discloses the claimed stapler, as best understood from the claims, comprising a magazine cartridge 2, a pusher biased by a spring 7 for delivering staples to a take out opening in the stapler, a guide groove means 8a for staple legs, a driver 5, an anvil 3 for bending staples, wherein the stapler could be oriented such the staples are horizontal, if desired, and such that the specifically recited staples could be driven, if desired. JP '580 discloses the claimed stapler, as best understood from the claims, comprising a magazine cartridge 14, a pusher 26 biased by a spring 31 for delivering staples to a

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take out opening in the stapler, a guide groove means 20 for the staples, a driver 35, an anvil 4 for bending staples, wherein the stapler could be oriented such the staples are horizontal, if desired, and such that the specifically recited staples could be driven, if desired.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. La Place, Hubbard, Heller, Stewart, Ehler, Sato, Yanagida et al., Chi, Olesen, Mitsuhashi, and Mintzer disclose similar staplers and/or staples.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A. Smith whose telephone number is 571-272-4469. The examiner can normally be reached on 5:30-4:00 Tues.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Smith

  
**SCOTT A. SMITH**  
**PRIMARY EXAMINER**